THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No.7785 of 2007

Date: 20.08.2007

Between:
K.Jagannadhan

... PETITIONER

AND

The Superintendent of Engineer and another.

... RESPONDENTS

ORDER:

The petitioner was entrusted with different works by the respondents from time to time. One of the works is valued at Rs.3,04,297/-. The bills for that work have not been released to the petitioner on the ground that he is liable to pay E.P.F. in respect of the workers, engaged by him, on earlier occasions. The respondents insisted on production of clearance certificate from the E.P.F. authorities. The petitioner challenges the action of the respondents. He contends that the works entrusted to him are trivial in nature and in none of the regular employees have been engaged. It is also his case that even if there exists any liability under the Employees Provident Fund Act (for short 'the Act'), the respondents do not have any role to play in the matter.

On behalf of the respondents, a counter-affidavit is filed. It is stated that the bill payable to the petitioner is withheld on account of his non-production of the clearance certificate from the E.P.F. authorities.

Heard the learned counsel for the petitioner and the learned standing counsel for the respondents.

The fact that the petitioner was entrusted with the works and a substantial amount payable to him was withheld is not

denied by the respondents. They try to justify the same, on the ground that the petitioner has not submitted the clearance certificate from the E.P.F. authorities.

The Act places the liability to make the contribution on the employer. Further, such liability arises depending on circumstances, such as, the longevity and nature of employment. It is not as if the every casual labour engaged by a contractor is covered by the Act.

The occasion for an agency which awards contracts to others, to recover E.P.F. would arise where it relates to supply of labour. In such cases, the agency which extracts the work would be principal employer and labour contractor assumes a secondary position. Admittedly, the contract, in the instant case, is not for supplying labourers. It was for execution of certain works. The respondents have absolutely nothing to do with the relationship between the petitioner on the one hand and the persons engaged by him on the other. Therefore, there is no justification for the respondents in withholding the amount payable to the petitioner on the pretext of the non-production of clearance certificate from the E.P.F. authorities.

Hence, the writ petition is allowed, and the respondents are directed to release the amount payable to the petitioner without insisting on production of clearance certificate from the E.P.F. authorities, within a period of two months from today. There shall be no order as to costs.

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20.08.2007

Note: Issue cc in three days.
(B/o)
kdl